

Replacement Parcel 147 Parking Spaces shall be approved by Director in connection with the approval by Director of the Approved Final Plans, Specifications and Costs. The Replacement Parcel 147 Parking Spaces shall be open to the public seven (7) days per week in accordance with such rules and regulations (including hours of public access) as are promulgated from time to time by County regulating such public use. Lessee shall make no use of the Premises, including without limitation the other parking located thereon, that interferes with the public easement described in this subsection 15.20.3 or is prohibited under or in conflict with the rules and regulations established by County for the use of the Replacement Parcel 147 Parking Spaces. County shall not be obligated to pay Lessee any compensation for the Replacement Parcel 147 Parking Spaces. Lessee shall have the right to charge the users of the Replacement Parcel 147 Parking Spaces for the use thereof in accordance with rates approved by County (with California Coastal Commission approval as required under Applicable Law) consistent with the public parking rates established (as modified from time to time) for other similar public parking in Marina del Rey. At Director's election, County and Lessee shall execute in recordable form a separate parking easement agreement that documents the terms and conditions of the public parking rights set forth in this subsection 15.20.3.

15.20.4 Parking Structure Operation Plan. Not later than ninety (90) days prior to the opening of the Parking Structure, Lessee shall submit to Director for Director's approval, a plan for the operation of the Parking Structure (the "Operation Plan"), including without limitation, hours of operation, access procedures, security, parking charges (if any) and other specifications pertaining to the operation of the Parking Structure. Lessee shall be obligated to operate, maintain and repair the Parking Structure at its sole cost and expense, in accordance with a standard of operation, repair and maintenance at least commensurate the standard of operation of other comparable first-class parking facilities in Marina del Rey. Lessee shall operate the Parking Structure in accordance with the Operation Plan, as approved by Director, and shall make no modifications to such Operation Plan without the prior written approval of Director.

15.21 Dockmasters. Throughout the Term, Lessee shall maintain a dockmaster program acceptable to County to manage Lessee's anchorage at the Premises. Such dockmaster system may be jointly operated with the anchorage for Parcels 18 and 20.

15.22 Seaworthy Vessels. On or before January 1, April 1, July 1 and October 1 of each year during the Term, Lessee shall deliver to Director a report which contains the following information with respect to every vessel (including floating homes as defined in Title 19 of the Los Angeles County Code) moored within the Premises: (i) the name, address and telephone number of the registered owner (and slip tenant, if other than the registered owner) for each vessel; (ii) the state registration or federal document number, and name (if any), of the vessel; (iii) whether the vessel is a power vessel, sailing vessel or floating home; and (iv) the slip number and length of the vessel, and whether the vessel is presently authorized by Lessee for liveaboard tenancy. In addition, Lessee shall require, and shall certify annually to the Director, that as a condition of slip rental and continued slip tenancy, all new slip tenanted vessels from and after the Effective Date have been required to pass seaworthiness inspection by the Harbor Patrol within sixty (60) days of such slip rental. Henceforth, all of Lessee's slip leases shall provide that any newly tenanted vessel which is unable to pass such inspection within the

required period, or such reasonable extension thereof as may be granted in the Director's sole discretion, shall be ineligible for continued slip tenancy on the leasehold premises and shall be removed therefrom. The requirements of the two preceding sentences shall not be applicable to any vessel which is specifically exempted from seaworthiness requirements by Title 19 of the Los Angeles County Code.

15.23 Controlled Prices. Lessee shall at all times maintain a complete list or schedule of the prices charged for all goods or services, or combinations thereof, supplied to the public on or from the Premises, whether the same are supplied by Lessee or by its Sublessees, assignees, concessionaires, permittees or licensees. Said prices shall be fair and reasonable, based upon the following two (2) considerations: first, that the property herein demised is intended to serve a public use and to provide needed facilities to the public at fair and reasonable cost; and second, that Lessee is entitled to a fair and reasonable return upon his investment pursuant to this Lease. In the event that Director notifies Lessee that any of said prices are not fair and reasonable, Lessee shall have the right to confer with Director and to justify said prices. If, after reasonable conference and consultation, Director shall determine that any of said prices are not fair and reasonable, the same shall be modified by Lessee or its Sublessees, assignees, concessionaires, permittees or licensees, as directed. Lessee may appeal the determination of Director to the Board, whose decision shall be final and conclusive. Pending such appeal, the prices fixed by Director shall be the maximum charged by Lessee.

15.24 No Merger. If, prior to the expiration of the Term, County or Lessee shall acquire the interest of the other in the Promises, or any portion thereof, there shall be no merger of the leasehold estate into (a) the fee simple estate in the Premises, (b) the sub-reversionary interest held by County or (c) any leasehold estate superior to that held by Lessee.

15.25 365 Election. County and Lessee agree, for the benefit of any Encumbrance Holder, that for so long as an Encumbrance shall encumber Lessee's interest in the Premises, the right of election arising under Section 365(h)(1) of the Bankruptcy Code may be exercised solely by Encumbrance Holder and not by Lessee. Any exercise or attempted exercise of such right of election by Lessee shall be void.

16. ARBITRATION.

Except as otherwise provided by this Article 16, disputed matters which may be arbitrated pursuant to this Lease shall be settled by binding arbitration in accordance with the then existing provisions of the California Arbitration Act, which as of the date hereof is contained in Title 9 of Part III of the California Code of Civil Procedure, commencing with Section 1280.

(a) Either party (the "Initiating Party") may initiate the arbitration process by sending written notice ("Request for Arbitration") to the other party (the "Responding Party") requesting initiation of the arbitration process and setting forth a brief description of the dispute or disputes to be resolved and the contention(s) of the Initiating Party. Within ten (10) days after service of the Request for Arbitration, the Responding Party shall file a "Response" setting forth the Responding Party's description of the dispute and the contention(s) of Responding Party. If Responding Party has any "Additional Disputes" he shall follow the format described for the

Initiating Party. The Initiating Party will respond within ten (10) days after service of the Additional Disputes setting forth Initiating Party's description of the Additional Disputes and contentions regarding the Additional Disputes.

(b) Notwithstanding anything to the contrary which may now or hereafter be contained in the California Arbitration Act, the parties agree that the following provisions shall apply to any and all arbitration proceedings conducted pursuant to this Lease:

16.1 Selection of Arbitrator. The parties shall attempt to agree upon an arbitrator who shall decide the matter. If, for any reason, the parties are unable to agree upon the arbitrator within ten (10) days of the date the Initiating Party serves a request for arbitration on the Responding Party, then at any time on or after such date either party may petition for the appointment of the arbitrator as provided in California Code of Civil Procedure Section 1281.6.

16.2 Arbitrator. The arbitrator shall be a retired judge of the California Superior Court, Court of Appeal or Supreme Court, or any United States District Court or Court of Appeals located within the State, who has agreed to resolve civil disputes.

16.3 Scope of Arbitration. County and Lessee affirm that the mutual objective of such arbitration is to resolve the dispute as expeditiously as possible. The arbitration process shall not apply or be used to determine issues other than (i) those presented to the arbitrator by the Initiating Party provided those disputes are arbitrable disputes pursuant to this Lease, (ii) Additional Disputes presented to the arbitrator by the Responding Party, provided that any such Additional Disputes constitute arbitrable disputes pursuant to this Lease and (iii) such related preliminary or procedural issues as are necessary to resolve (i) and/or (ii) above. The arbitrator shall render an award. Either party may, at its sole cost and expense, request a statement of decision explaining the arbitrator's reasoning which shall be in such detail as the arbitrator may determine. Unless otherwise expressly agreed by the parties in writing, the award shall be made by the arbitrator no later than the sooner of six (6) months after the date on which the arbitrator is selected by mutual agreement or court order, whichever is applicable, or five (5) months after the date of a denial of a petition to disqualify a potential arbitrator for cause. County and Lessee hereby instruct the arbitrator to take any and all actions deemed reasonably necessary, appropriate or prudent to ensure the issuance of an award within such period. Notwithstanding the foregoing, failure to complete the arbitration process within such period shall not render such arbitration or any determination made therein void or voidable; however, at any time after the expiration of the foregoing five (5) or six (6) month periods, as applicable, either party may deliver written notice to the arbitrator and the other party either terminating the arbitration or declaring such party's intent to terminate the arbitration if the award is not issued within a specified number of days after delivery of such notice. If the arbitrator's award is not issued prior to the expiration of said specified period, the arbitration shall be terminated and the parties shall recommence arbitration proceedings pursuant to this Article 16.

16.4 Immunity. The parties hereto agree that the arbitrator shall have the immunity of a judicial officer from civil liability when acting in the capacity of arbitrator pursuant to this Lease.

16.5 Section 1282.2. The provisions of Code of Civil Procedure § 1282.2 shall apply to the arbitration proceedings except to the extent they are inconsistent with the following:

(a) Unless the parties otherwise agree, the arbitrator shall appoint a time and place for the hearing and shall cause notice thereof to be served as provided in said § 1282.2 not less than ninety (90) days before the hearing, regardless of the aggregate amount in controversy.

(b) No later than sixty (60) days prior to the date set for the hearing (unless, upon a showing of good cause by either party, the arbitrator establishes a different period), in lieu of the exchange and inspection authorized by Code of Civil Procedure § 1282.2(a)(2)(A), (B) and (C), the parties shall simultaneously exchange the following documents by personal delivery to each other and to the arbitrator:

(1) a written Statement of Position, as further defined below, setting forth in detail that party's final position regarding the matter in dispute and specific numerical proposal for resolution of monetary disputes;

(2) a list of witnesses each party intends to call at the hearing, designating which witnesses will be called as expert witnesses and a summary of each witness's testimony;

(3) a list of the documents each intends to introduce at the hearing, together with complete and correct copies of all of such documents; and,

(4) if the issue involves Fair Market Rental Value or a valuation matter, a list of all Written Appraisal Evidence (as defined below) each intends to introduce at the hearing, together with complete and correct copies of all of such Written Appraisal Evidence.

(c) No later than twenty (20) days prior to the date set for the hearing, each party may file a reply to the other party's Statement of Position ("Reply"). The Reply shall contain the following information:

(1) a written statement, to be limited to that party's rebuttal to the matters set forth in the other party's Statement of Position;

(2) a list of witnesses each party intends to call at the hearing to rebut the evidence to be presented by the other party, designating which witnesses will be called as expert witnesses;

(3) a list of the documents each intends to introduce at the hearing to rebut the evidence to be presented by the other party, together with complete and correct copies of all of such documents (unless, upon a showing of good cause by either party, the arbitrator establishes a different deadline for delivering true and correct copies of such documents);

(4) if the issue involves Fair Market Rental Value or a valuation matter, a list of all Written Appraisal Evidence, or written critiques of the other party's Written

Appraisal Evidence if any, each intends to introduce at the hearing to rebut the evidence presented by the other party, together with complete and correct copies of all of such Written Appraisal Evidence (unless, upon a showing of good cause by either party, the arbitrator establishes a different deadline for delivering true and correct copies of such Written Appraisal Evidence); and

(5) Witnesses or documents to be used solely for impeachment of a witness need not be identified or produced.

(d) The arbitrator is not bound by the rules of evidence, but may not consider any evidence not presented at the hearing. The arbitrator may exclude evidence for any reason a court may exclude evidence or as provided in this Lease.

16.6 Statements of Position. The Statement of Position to be delivered by Section 16.5 shall comply with the following requirements:

(a) Where the dispute involves rent to be charged, market values, insurance levels or other monetary amounts, the Statements of Position shall numerically set forth the existing minimum rent, percentage rent, market value, insurance level and/or other monetary amounts in dispute, the party's proposed new minimum rent, percentage rent, market value, insurance level and/or other monetary amounts, and shall additionally set forth the facts supporting such party's position.

(b) If the dispute relates to Improvement Costs, the Statements of Position shall set forth the facts supporting such party's position and the amount of each cost which the party believes should be allowed or disallowed.

16.7 Written Appraisal Evidence. Neither party may, at any time during the proceedings, introduce any written report which expresses an opinion regarding Fair Market Rental Value or the fair market value of the Premises, or any portion thereof, ("Written Appraisal Evidence") unless such Written Appraisal Evidence substantially complies with the following standards: it shall describe the Premises; identify the uses permitted thereon; describe or take into consideration the terms, conditions and restrictions of this Lease; correlate the appraisal method(s) applied; discuss the relevant factors and data considered; review rentals paid by lessees in Marina del Rey and other marina locations within Southern California who are authorized to conduct similar activities on comparable leaseholds; and, describe the technique of analysis, limiting conditions and computations that were used in the formulation of the valuation opinion expressed. With respect to disputes regarding Fair Market Rental Value, such Written Appraisal Evidence shall express an opinion regarding the fair market rental value of the Premises as prescribed by Section 4.4.1. Written Appraisal Evidence in connection with disputes arising out of Article 6 of this Lease shall predicate any valuation conclusions contained therein on the Income Approach. Written Appraisal Evidence shall in all other respects be in material conformity and subject to the requirements of the Code of Professional Ethics and the Standards of Professional Practice of The Appraisal Institute or any successor entity, etc.

16.8 Evidence. The provisions of Code of Civil Procedure § 1282.2(a)(2)(E) shall not apply to the arbitration proceeding. The arbitrator shall have no discretion to allow a party to

introduce witnesses, documents or Written Appraisal Evidence (other than impeachment testimony) unless such information was previously delivered to the other party in accordance with Section 16.5 and, in the case of Written Appraisal Evidence, substantially complies with the requirements of Section 16.7, or such evidence consists of a transcript of a deposition of an expert witness conducted pursuant to Section 16.9. Notwithstanding the foregoing, the arbitrator may allow a party to introduce evidence which, in the exercise of reasonable diligence, could not have been delivered to the other party in accordance with Section 16.5, provided such evidence is otherwise permissible hereunder.

16.9 Discovery. The provisions of Code of Civil Procedure § 1283.05 shall not apply to the arbitration proceedings except to the extent incorporated by other sections of the California Arbitration Act which apply to the arbitration proceedings. There shall be no pre-arbitration discovery except as provided in Section 16.5; provided, however, each party shall have the right, no later than seven (7) days prior to the date first set for the hearing, to conduct a deposition, not to exceed three (3) hours in duration unless the arbitrator otherwise determines that good cause exists to justify a longer period, of any person identified by the other party as an expert witness pursuant to Sections 16.5 (2)(b) or 16.5 (3)(b).

16.10 Awards of Arbitrators.

16.10.1. Monetary Issues. With respect to monetary disputes (including without limitation disputes regarding Percentage Rent, Fair Market Rental Value and the amount of coverage under the policies of insurance required pursuant to Article 9 of this Lease), the arbitrator shall have no right to propose a middle ground or any proposed modification of either Statement of Position. The arbitrator shall instead select whichever of the two Statements of Position is the closest to the monetary or numerical amount that the arbitrator determines to be the appropriate determination of the rent, expense, claim, cost, delay, coverage or other matter in dispute and shall render an award consistent with such Statement of Position. For purposes of this Section 16.10, each dispute regarding Annual Minimum Rent, each category of Percentage Rent and the amount of required insurance coverage shall be considered separate disputes (a "Separate Dispute"). While the arbitrator shall have no right to propose a middle ground or any proposed modification of either Statement of Position concerning a Separate Dispute, the arbitrator shall have the right, if the arbitrator so chooses, to choose one party's Statement of Position on one or more of the Separate Disputes, while selecting the other party's Statement of Position on the remaining Separate Disputes. For example, if the parties are unable to agree on the Annual Minimum Rent and three Percentage Rent categories to be renegotiated pursuant to Section 4.4 and the amount of liability insurance coverage to be renegotiated pursuant to Section 9.3, then there shall be five Separate Disputes and the arbitrator shall be permitted to select the County's Statement of Position with respect to none, some or all of such five Separate Disputes and select the Lessee's Statement of Position, on the balance, if any, of such five Separate Disputes. Upon the arbitrator's selection of a Statement of Position, pursuant to this Article 16, the Statement of Position so chosen and the award rendered by the arbitrator thereon shall be final and binding upon the parties, absent Gross Error on the part of the arbitrator.

16.10.2. Nonmonetary Issues. With respect to nonmonetary issues and disputes, the arbitrator shall determine the most appropriate resolution of the issue or dispute, taking into account the Statements of Position submitted by the parties, and shall render an award accordingly. Such award shall be final and binding upon the parties, absent Gross Error on the part of the arbitrator.

16.11 Powers of Arbitrator. In rendering the award, the arbitrator shall have the power to consult or examine experts or authorities not disclosed by a party pursuant to Section 16.5(2) hereof, provided that each party is afforded the right to cross-examine such expert or rebut such authority.

16.12 Costs of Arbitration. Lessee and County shall equally share the expenses and fees of the arbitrator, together with other expenses of arbitration incurred or approved by the arbitrator. Failure of either party to pay its share of expenses and fees constitutes a material breach of such party's obligations hereunder.

16.13 Amendment to Implement Judgment. Within seven (7) days after the issuance of any award by the arbitrator becomes final, the County will draft a proposed amendment to the Lease setting forth the relevant terms of such award. Within seven (7) days after delivery of a copy of the amendment to Lessee, Lessee will sign the amendment and return the executed copy to the County, which shall thereafter be approved by the Board of Supervisors and executed by County as soon as reasonably practicable.

16.14 Impact of Gross Error Allegations. Where either party has charged the arbitrator with Gross Error:

16.14.1. The award shall not be implemented if the party alleging Gross Error obtains a judgment of a court of competent jurisdiction stating that the arbitrator was guilty of Gross Error and vacating the arbitration award ("Disqualification Judgment"). In the event of a Disqualification Judgment, the arbitration process shall begin over immediately in accordance with this Section 16.14, which arbitration shall be conducted (with a different arbitrator) as expeditiously as reasonably possible.

16.14.2. The party alleging Gross Error shall have the burden of proof.

16.14.3. For the purposes of this Section 16.14, the term "Gross Error" shall mean that the arbitration award is subject to vacation pursuant to California Code of Civil Procedure § 1286.2 or any successor provision.

16.15 Notice.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY

INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE ARBITRATION OF DISPUTES PROVISION TO NEUTRAL ARBITRATION.

Initials of Lessee

Initials of County

17. DEFINITION OF TERMS; INTERPRETATION.

17.1 Meanings of Words Not Specifically Defined. Words and phrases contained herein shall be construed according to the context and the approved usage of the English language, but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning by law, or are defined in Section 1.1, are to be construed according to such technical, peculiar, and appropriate meaning or definition.

17.2 Tense; Gender; Number; Person. Words used in this Lease in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter and the neuter includes the masculine and feminine; the singular number includes the plural and the plural the singular; the word "person" includes a corporation, partnership, limited liability company or similar entity, as well as a natural person.

17.3 Business Days. For the purposes of this Lease, "business day" shall mean a business day as set forth in Section 9 of the California Civil Code.

17.4 Parties Represented by Consultants, Counsel. Both County and Lessee have entered this Lease following advice from independent financial consultants and legal counsel of their own choosing. This document is the result of combined efforts of both parties and their consultants and attorneys. Thus, any rule of law or construction which provides that ambiguity in a term or provision shall be construed against the draftsman shall not apply to this Lease.

17.5 Governing Law. This Lease shall be governed by and interpreted in accordance with the laws of the State of California.

17.6 Reasonableness Standard. Except where a different standard is specifically provided otherwise herein, whenever the consent of County or Lessee is required under this Lease, such consent shall not be unreasonably withheld and whenever this Lease grants County or Lessee the right to take action, exercise discretion, establish rules and regulations or make allocations or other determinations, County and Lessee shall act reasonably and in good faith. These provisions shall only apply to County acting in its proprietary capacity.

17.7 Compliance with Code. County and Lessee agree and acknowledge that this Lease satisfies the requirements of Sections 25536 and 25907 of the California Government Code as a result of various provisions contained herein.

17.8 Memorandum of Lease. The parties hereto shall execute and acknowledge a Memorandum of Lease Extension, in recordable form and otherwise satisfactory to the parties hereto, for recording as soon as is practicable on or following the Execution Date.

17.9 Water Quality Management Program. During the remaining Term of the Lease, Lessee shall comply with all water quality management requirements imposed by the Coastal Commission in connection with the issuance of the Coastal Development Permit for the Anchorage Improvements; provided, however, that Lessee shall in all events comply at least with the water quality management requirements set forth in Exhibit D attached to this Lease. In addition, during the remaining Term of the Lease, Lessee shall remove floating debris from the water surrounding the Anchorage Improvements in accordance with a program and regular schedule reasonably acceptable to the Director.

IN WITNESS WHEREOF, County has, by order of its Board of Supervisors, caused this Lease to be subscribed by the Chairman of said Board and attested by the Clerk thereof, and Lessee has executed the same the day and year first hereinabove written.

THE COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

HOLIDAY-PANAY WAY MARINA, L.P.,
a California limited partnership

By: _____
Name: _____
Its: _____

ATTEST:

SACHI HAMAI,
Executive Officer of the Board of
Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.,
OFFICE OF COUNTY COUNSEL

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

Parcels 263 to 286 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, recorded in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said county.

Reserving and excepting therefrom unto the County of Los Angeles easements for sanitary sewer, fire access and harbor utility purposes over those portions thereof designated on said map to be reserved by said county for such purposes.

Also reserving and excepting therefrom unto the County of Los Angeles an easement for drainage purposes in and across that portion of above described parcel of land which lies within the southerly 4 feet of the westerly 12 feet of the easterly 22 feet of said Parcel 285.

Also subject to the easements reserved by the County of Los Angeles in Sections 15.19 and 15.20 of this Lease.

APN: 8940-759-833
8940-370-022
8940-370-023

EXHIBIT A-1

PARTIAL TERMINATION PREMISES

EXHIBIT B
REDEVELOPMENT PLAN

EXHIBIT C

ASSIGNMENT STANDARDS

These standards are to apply to Proposed Transfers of Lessee's interest in this Lease and/or the Premises and to any Major Sublease. These standards and conditions are not to apply to (a) an assignment for the purpose of securing leasehold financing of the parcel by an encumbrance holder approved by County, (b) the transfer of the leasehold in connection with a foreclosure or transfer in lieu of foreclosure by an approved lender, or (c) the first transfer by that encumbrance holder if it has acquired the leasehold through a foreclosure or a transfer in lieu of foreclosure.

1. The proposed transferee must have a net worth determined to be sufficient in relation to the financial obligations of the lessee pursuant to the specific lease involved (e.g. equal to at least six (6) times the total Annual Minimum Rent and Percentage Rent due to County for the most recent fiscal). A letter of credit, cash deposit, guarantee from a parent entity or participating individual(s) having sufficient net worth or similar security satisfactory to the County may be substituted for the net worth requirement. If the proposed transferee's net worth is materially less than the transferor's, County may disapprove the assignment or require additional security such as that described in the previous sentence.
2. The proposed assignee must have significant experience in the construction (if contemplated), operation and management of the type(s) of Improvements existing on or to be constructed on the Premises, or provide evidence of contractual arrangements for these services with providers of such services satisfactory to the County. Changes in the providers of such services and changes to the contractual arrangements must be approved by the County. All approvals of the County will not be unreasonably withheld or delayed.
3. The individual or individuals who will acquire Lessee's interest in this Lease or the Premises, or own entity which will so acquire Lessee's interest, irrespective of the tier at which individual ownership is held, must be of good character and reputation and, in any event, shall have neither a history of, nor a reputation for: (1) discriminatory employment practices which violate any federal, state or local law; or (2) non-compliance with environmental laws, or any other legal requirements or formally adopted ordinances or policies of the County.
4. The price to be paid for the Proposed Transfer shall not result in a financing obligation of the proposed transferee which jeopardizes its ability to meet rental obligations to the County. Market debt service coverage ratios and leasehold financial performance, at the time of the Proposed Transfer, will be used by County in making this analysis.
5. If the proposed transferee is an entity, rather than an individual, the structure of the proposed transferee must be such that (or the assignee must agree that) the County will have reasonable approval rights regarding any future direct or indirect transfers of interests in the entity or the applicable lease; provided

however, that a transfer of ownership of a publicly held parent corporation of Lessee that is not done primarily as a transfer of this leasehold will not be subject to County approval.

6. The terms of the proposed assignment will not detrimentally affect the efficient operation or management of the leasehold, the Premises or any Improvements thereon.
7. The proposed transferee does not have interests which, when aggregated with all other interests granted by County to such transferee, would violate any policy formally adopted by County restricting the economic concentration of interests granted in the Marina del Rey area, which is uniformly applicable to all Marina del Rey lessees.
8. The transfer otherwise complies with the terms of all ordinances, policies and/or other statements of objectives which are formally adopted by County and/or the County Department of Beaches and Harbors and which are uniformly applicable to persons or entities with rights of occupancy in any portion of Marina del Rey.

EXHIBIT D

PUBLIC SERVICE PLAN ACTIVITIES

ENDPAGE

NYC's largest and oldest Latino organization, located in the Bronx and dedicated to "helping Cuban-Americans and other Latinos, which benefits our children in La Paz; the Angel-Castro-Polo Run which helps disadvantaged and neglected children; and other joint community activities in the United Club of Cuban Little High School, Brownie Troop #1001, Cuban City Rotary Club, and other organizations and events sponsored by the Board of Directors."

Abstract

FMRC holds an annual CHC (China) Fair in April of the year. Concerning shipping and navigation channels made available by the US Navy's Operation Coast Guard Authority, and the AFM Department, we printed periodically as requested. Cost of publication is no cost.

РАБОТА НАЧАЛЬНИКА

AFRC, including volunteerism and youth. It aimed to provide local people with programs largely being conducted. It was a member of AFRC that signed the disarmament pact, which has been an integral part of the AFRC's plans.

YOMAH MUGSHES

PMTC leaders are active in helping change the school situation and in going to court, and are guided by elected board members. Child participation is always a first step and this has helped, in itself, to spread the spirit of change. This cannot happen if outsiders are not encouraged. PMTC has also welcomed national, national and international visitors and they request the Dallas City Hall and the Dallas County and City Council to support PMTC. It is a special kind of school and it is a special kind of school. It is a special kind of school and it is a special kind of school.

ABSTRACT

[illegible]

History

PATYC was established in 1985 as a non-profit club to serve the boating community in Western Dry Flats. PATYC provides a safe and fun way for people to enjoy water sports and activities. PATYC is a non-profit organization and its purpose is to provide a safe and fun way for people to enjoy water sports and activities.

1971-1972, 1973-1974, 1975-1976, 1977-1978, 1979-1980, 1981-1982, 1983-1984, 1985-1986, 1987-1988, 1989-1990, 1991-1992, 1993-1994, 1995-1996, 1997-1998, 1999-2000, 2001-2002, 2003-2004, 2005-2006, 2007-2008, 2009-2010, 2011-2012, 2013-2014, 2015-2016, 2017-2018, 2019-2020, 2021-2022, 2023-2024, 2025-2026, 2027-2028, 2029-2030, 2031-2032, 2033-2034, 2035-2036, 2037-2038, 2039-2040, 2041-2042, 2043-2044, 2045-2046, 2047-2048, 2049-2050, 2051-2052, 2053-2054, 2055-2056, 2057-2058, 2059-2060, 2061-2062, 2063-2064, 2065-2066, 2067-2068, 2069-2070, 2071-2072, 2073-2074, 2075-2076, 2077-2078, 2079-2080, 2081-2082, 2083-2084, 2085-2086, 2087-2088, 2089-2090, 2091-2092, 2093-2094, 2095-2096, 2097-2098, 2099-2100, 2101-2102, 2103-2104, 2105-2106, 2107-2108, 2109-2110, 2111-2112, 2113-2114, 2115-2116, 2117-2118, 2119-2120, 2121-2122, 2123-2124, 2125-2126, 2127-2128, 2129-2130, 2131-2132, 2133-2134, 2135-2136, 2137-2138, 2139-2140, 2141-2142, 2143-2144, 2145-2146, 2147-2148, 2149-2150, 2151-2152, 2153-2154, 2155-2156, 2157-2158, 2159-2160, 2161-2162, 2163-2164, 2165-2166, 2167-2168, 2169-2170, 2171-2172, 2173-2174, 2175-2176, 2177-2178, 2179-2180, 2181-2182, 2183-2184, 2185-2186, 2187-2188, 2189-2190, 2191-2192, 2193-2194, 2195-2196, 2197-2198, 2199-2200, 2201-2202, 2203-2204, 2205-2206, 2207-2208, 2209-2210, 2211-2212, 2213-2214, 2215-2216, 2217-2218, 2219-2220, 2221-2222, 2223-2224, 2225-2226, 2227-2228, 2229-2230, 2231-2232, 2233-2234, 2235-2236, 2237-2238, 2239-2240, 2241-2242, 2243-2244, 2245-2246, 2247-2248, 2249-2250, 2251-2252, 2253-2254, 2255-2256, 2257-2258, 2259-2260, 2261-2262, 2263-2264, 2265-2266, 2267-2268, 2269-2270, 2271-2272, 2273-2274, 2275-2276, 2277-2278, 2279-2280, 2281-2282, 2283-2284, 2285-2286, 2287-2288, 2289-2290, 2291-2292, 2293-2294, 2295-2296, 2297-2298, 2299-2300, 2301-2302, 2303-2304, 2305-2306, 2307-2308, 2309-2310, 2311-2312, 2313-2314, 2315-2316, 2317-2318, 2319-2320, 2321-2322, 2323-2324, 2325-2326, 2327-2328, 2329-2330, 2331-2332, 2333-2334, 2335-2336, 2337-2338, 2339-2340, 2341-2342, 2343-2344, 2345-2346, 2347-2348, 2349-2350, 2351-2352, 2353-2354, 2355-2356, 2357-2358, 2359-2360, 2361-2362, 2363-2364, 2365-2366, 2367-2368, 2369-2370, 2371-2372, 2373-2374, 2375-2376, 2377-2378, 2379-2380, 2381-2382, 2383-2384, 2385-2386, 2387-2388, 2389-2390, 2391-2392, 2393-2394, 2395-2396, 2397-2398, 2399-2400, 2401-2402, 2403-2404, 2405-2406, 2407-2408, 2409-2410, 2411-2412, 2413-2414, 2415-2416, 2417-2418, 2419-2420, 2421-2422, 2423-2424, 2425-2426, 2427-2428, 2429-2430, 2431-2432, 2433-2434, 2435-2436, 2437-2438, 2439-2440, 2441-2442, 2443-2444, 2445-2446, 2447-2448, 2449-2450, 2451-2452, 2453-2454, 2455-2456, 2457-2458, 2459-2460, 2461-2462, 2463-2464, 2465-2466, 2467-2468, 2469-2470, 2471-2472, 2473-2474, 2475-2476, 2477-2478, 2479-2480, 2481-2482, 2483-2484, 2485-2486, 2487-2488, 2489-2490, 2491-2492, 2493-2494, 2495-2496, 2497-2498, 2499-2500, 2501-2502, 2503-2504, 2505-2506, 2507-2508, 2509-2510, 2511-2512, 2513-2514, 2515-2516, 2517-2518, 2519-2520, 2521-2522, 2523-2524, 2525-2526, 2527-2528, 2529-2530, 2531-2532, 2533-2534, 2535-2536, 2537-2538, 2539-2540, 2541-2542, 2543-2544, 2545-2546, 2547-2548, 2549-2550, 2551-2552, 2553-2554, 2555-2556, 2557-2558, 2559-2560, 2561-2562, 2563-2564, 2565-2566, 2567-2568, 2569-2570, 2571-2572, 2573-2574, 2575-2576, 2577-2578, 2579-2580, 2581-2582, 2583-2584, 2585-2586, 2587-2588, 2589-2590, 2591-2592, 2593-2594, 2595-2596, 2597-2598, 2599-2600, 2601-2602, 2603-2604, 2605-2606, 2607-2608, 2609-2610, 2611-2612, 2613-2614, 2615-2616, 2617-2618, 2619-2620, 2621-2622, 2623-2624, 2625-2626, 2627-2628, 2629-2630, 2631-2632, 2633-2634, 2635-2636, 2637-2638, 2639-2640, 2641-2642, 2643-2644, 2645-2646, 2647-2648, 2649-2650, 2651-2652, 2653-2654, 2655-2656, 2657-2658, 2659-2660, 2661-2662, 2663-2664, 2665-2666, 2667-2668, 2669-2670, 2671-2672, 2673-2674, 2675-2676, 2677-2678, 2679-2680, 2681-2682, 2683-2684, 2685-2686, 2687-2688, 2689-2690, 2691-2692, 2693-2694, 2695-2696, 2697-2698, 2699-2700, 2701-2702, 2703-2704, 2705-2706, 2707-2708, 2709-2710, 2711-2712, 2713-2714, 27

AMENDED AND RESTATED LEASE AGREEMENT

by and between

County of Los Angeles

and

Holiday-Panay Way Marina, L.P.

(Parcel 21--Lease No. _____)

Dated as of _____

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EXHIBIT A-1	PARTIAL TERMINATION PREMISES
EXHIBIT B	REDEVELOPMENT PLAN
EXHIBIT C	ASSIGNMENT STANDARDS
EXHIBIT D	PUBLIC SERVICE PLAN ACTIVITIES



To enrich lives through effective and caring service



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

January 17, 2008

TO: Small Craft Harbor Commission

FROM: Stan Wisniewski, Director *SWi*

**SUBJECT: ITEM 4b - APPROVAL OF AMENDMENT NO.12 TO LEASE NO. 6684 TO
MODIFY REDEVELOPMENT WORK AND LEASEHOLD AREA –
PARCEL 20 (PANAY WAY MARINA) - MARINA DEL REY**

Item 4b on your agenda pertains to an amendment to the Parcel 20 lease (Panay Way Marina), relating to the use and development of a portion of Parcel 20.

Attached is a copy of the Board letter that explains the details of the proposed amendment. The exhibit to the Board letter includes a copy of the proposed Amendment and a Memorandum of Lease Amendment.

Your Commission's endorsement of the Chief Executive Officer's recommendation to the Board of Supervisors as contained in the attached letter is requested.

SW:gb
Attachment

January 15, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**DEPARTMENT OF BEACHES AND HARBORS: APPROVAL OF AMENDMENT
NO. 12 TO LEASE NO. 6684 TO MODIFY REDEVELOPMENT WORK AND
LEASEHOLD AREA ON PARCEL 20 (PANAY WAY MARINA) – MARINA DEL REY
(FOURTH DISTRICT)
(4 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed amendment to the Parcel 20 lease is categorically exempt under the California Environmental Quality Act pursuant to Classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.
2. Authorize the Chair to execute the attached Amendment No. 12 to Lease No. 6684 and the Memorandum of Lease Amendment with PANAY WAY MARINA, L.P., a California limited partnership, for the Parcel 20 lease in Marina del Rey, primarily relating to the use and development of a portion of Parcel 20 referred to herein as the Yacht Club Parcel.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The County is the lessor of a ground lease for Parcel 20, which was originally entered into in 1963 for a term of 60 years. On September 9, 2004, your Board executed an Amended and Restated Lease Agreement (Lease) extending the original expiration date of Lease No. 6684 for a term of 39 years with a new expiration date of December 31, 2061, and requiring the lessee, Panay Way Marina, L.P. (Lessee), to pay a \$450,000 lease extension

fee and implement a redevelopment program to include construction of a new 99-unit apartment building, replacement of existing docks with new docks, and construction of a 6,885 square foot new commercial building for the existing yacht club (Pacific Mariners Yacht Club) and commercial sublessees and of a waterfront promenade. Lessee has since completed construction of the 99-unit apartment building and the waterfront promenade fronting the new apartments, as well as replaced the docks.

In 2005, Lessee and County engaged in negotiations to amend the Lease. At that time, Lessee desired to relocate the Pacific Mariners Yacht Club and commercial sublessees into the proposed redevelopment project on Parcel 21 to be developed by Lessee's affiliate. The County in turn desired to reacquire the portion of Parcel 20 originally intended for the commercial building for use as a new administration building (Administration Building) for the Department of Beaches and Harbors (Department). The parties, therefore, agreed to divide Parcel 20 into two parcels, one of which (reduced Parcel 20) would be retained by Lessee containing the newly constructed 99-unit apartment building, boat slips and the related parking and the other of which (referenced herein as the Yacht Club Parcel) would be returned to County.

Since that agreement was reached, circumstances have changed. The changed circumstances include, among others, that: a) the Department has selected a different site as its preferred alternative for its Administration Building; b) the Pacific Mariners Yacht Club is contemplating a merger with the Santa Monica Windjammers Yacht Club and a potential relocation to a larger facility in Chace Park to accommodate the merged entity; and c) the Lessee desires to retain the Yacht Club Parcel for redevelopment if the County decides not to utilize the Yacht Club Parcel for its Administration Building. However, the Department still desires to retain an option to reacquire the Yacht Club Parcel, while also protecting the tenancy of the Pacific Mariners Yacht Club, until final decisions are made both as to the location of the Department's Administration Building and as to Pacific Mariners Yacht Club's plans. The proposed Amendment No. 12 to Lease No. 6684 (Amendment) addresses the changed circumstances and competing interests as follows:

(1) The Amendment provides that the County has up to seven years to notify the Lessee that it intends to build the Department's Administration Building on the Yacht Club Parcel. Upon receipt of such notice, Lessee is required to demolish the existing yacht club facility and reconvey the Yacht Club Parcel to County. In the event of such reconveyance, the then current rent for Parcel 20 is not adjusted, except that future minimum rent is calculated based only upon the gross revenues generated from the portion of Parcel 20 retained by Lessee.

(2) The Amendment defers the demolition and redevelopment of the Yacht Club Parcel until the earliest of (i) County's notice of its intention to build the Department's Administration Building on the Yacht Club Parcel, (ii) approval of

plans by the Board and the California Coastal Commission for the construction of the Administration Building and yacht club facility at alternative sites, or (iii) seven years from the effective date of the Amendment. If the County does not exercise its right to reacquire the Yacht Club Parcel for the purpose of constructing the Administration Building on the Yacht Club Parcel, Lessee shall be required to redevelop the Yacht Club Parcel in accordance with a development plan acceptable to County and land use entitlements issued by applicable governmental authorities. Should Pacific Mariners Yacht Club determine not to merge with the Santa Monica Windjammers Yacht Club and/or elect to relocate elsewhere, Lessee has the obligation to retain the yacht club at a location on either Parcel 20 or Parcel 21.

Economic Incentive if Pacific Mariners Yacht Club Relocates

Recognizing the economic benefit to Lessee if the Pacific Mariners Yacht Club relocates and Lessee is, thereby, relieved of its obligation to lease space to the yacht club, the Lessee has agreed in the Amendment to pay the County \$800,000 if Pacific Mariners Yacht Club ceases for any reason to be a sublessee on either Parcel 20 or Parcel 21 within seven years from the effective date of the Amendment. If this occurs, the Department will recommend that the Board of Supervisors use the \$800,000 to help fund the new expanded yacht club facility proposed for Chace Park.

The Amendment also amends certain other provisions of the Lease including: a) provision for parking and certain easements over Parcel 20 and the Yacht Club Parcel in the event the Yacht Club Parcel reverts back to the County; b) provisions pertaining to the use and development of the portion of the promenade located adjacent to the Yacht Club Parcel; and c) incorporation into the Parcel 20 Lease of updated lender protection provisions.

The Amendment calls for Lessee and County to sign a Memorandum of Lease Amendment, in recordable form, following the effective date of the Amendment.

Implementation of Strategic Plan Goals

This recommendation furthers the County's Strategic Plan Goals of "Service Excellence" and "Fiscal Responsibility", as a new facility will be provided the Pacific Mariners Yacht Club, a priority use in the Marina, if it does not merge with the Santa Monica Windjammers Yacht Club or relocate elsewhere and the County has secured for its purposes at no cost a site for the Department's Administration Building if it is not able to be constructed at the preferred site.

FISCAL IMPACT/FINANCING

If the Department builds its Administration Building at the Yacht Club Parcel, the site will have been secured at no cost to the County. Additionally, if Pacific Mariners Yacht Club relocates, the County will receive \$800,000, which the Department will recommend be used to fund the new expanded yacht club facility proposed for Chace Park.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Department is currently considering the southwest corner of Admiralty Way and Mindanao Way, the current site of the Visitor's Center, as the preferred site for its Administration Building. This location would provide the County with a prominent location in the Marina and easier access for the public. However, it is uncertain whether the County will be able to obtain all necessary approvals for the construction of the Administration Building at this site. As a result, it is prudent for the County to retain an option for a reasonable period of time to reacquire the Yacht Club Parcel for the Department's new Administration Building.

Except for the provisions in the Amendment relating to the use and development of the Yacht Club Parcel, the economic incentive pertaining to the relocation of Pacific Mariners Yacht Club, and certain other provisions described above, all other terms of the Lease for Parcel 20 remain unchanged.

At its meeting of January 23, 2008, the Small Craft Harbor Commission _____ the recommendation to approve the Amendment and Memorandum of Amendment in the form attached. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

The Amendment is categorically exempt under the California Environmental Quality Act pursuant to classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines. Entering into the Amendment does not authorize construction or reconstruction of any improvements.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

No impact on current services is anticipated as a result of the Amendment.

The Honorable Board of Supervisors
January 15, 2008
Page 5

CONCLUSION

Attached are three copies each of the Amendment and the Memorandum of Lease Amendment. Please have the Chair execute all copies and instruct the Executive Officer of the Board to acknowledge the Chair's signature. Return two executed copies of each document to the Department of Beaches and Harbors, along with a copy of the approved Board letter, retaining one executed copy of each document for your files.

Respectfully submitted,

William T Fujioka

SW:SK:GB:ks

Attachments (2)

c: County Counsel

AMENDED AND RESTATED LEASE AGREEMENT

by and between

County of Los Angeles

and

Legacy Partners Neptune Marina L.P.

(Parcel 10R — Lease No. ____)

Dated as of _____, ____

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**AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 10R— MARINA DEL REY**

THIS AMENDED AND RESTATED LEASE AGREEMENT ("Lease") is made and entered into as of the _____ day of _____, ____ ("Effective Date"), by and between the COUNTY OF LOS ANGELES ("County"), as lessor, and LEGACY PARTNERS NEPTUNE MARINA L.P., a Delaware limited partnership (together with its permitted successors and assigns, "Lessee"), as lessee.

WITNESSETH

WHEREAS, the parties hereto or their predecessors in interest, entered into Lease No. 5574 dated May 4, 1962 (as amended prior hereto, the "Existing Lease") whereby prior to the Effective Date hereof Lessee has leased from County that certain real property in the Marina del Rey Small Craft Harbor commonly known as Parcel 10R and which is more specifically described as Parcel 10R on Exhibit A attached hereto and incorporated herein by this reference (the "Premises"), the term of which commenced as of March 1, 1962 and currently extends through February 28, 2022 (the "Existing Expiration Date"); and

WHEREAS, County and Lessee have entered into that certain Option to Amend Lease Agreement dated _____, 2008 (the "Option Agreement"), pursuant to which County has granted Lessee an option (the "Option") to amend and restate the Existing Lease in its entirety, upon the terms and conditions more specifically provided herein, including, without limitation, (i) the extension of the term of the Existing Lease through February 28, 2061, and (ii) the redevelopment of the Premises in accordance with the terms and provisions hereof; and

WHEREAS, Lessee has exercised the Option in accordance with the terms and provisions of the Option Agreement.

NOW, THEREFORE, in reliance on the foregoing and in consideration of the mutual covenants, agreements and conditions set forth herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto and each of them do agree that the Existing Lease is hereby amended and restated in full as follows:

1. BACKGROUND AND GENERAL.

1.1 Definitions. The defined terms in this Lease shall have the meanings as follows:

1.1.1 "ACCOUNTING YEAR" shall have the meaning set forth in Section 14.7.

1.1.2 "ACTUAL COST" shall mean (i) the reasonable out-of-pocket costs and expenses incurred by County with respect to a particular activity or procedure, including without limitation, expenditures to third party legal counsel, financial consultants and advisors (including the use of County's environmental consultant), (ii) costs incurred in connection with appraisals, (iii) the reasonable value of services actually

provided by County's in-house counsel, and (iv) the reasonable value of services actually provided by County's lead lease negotiator/administrator and any other lease auditors and other County administrative staff below the level of deputy director (the administrative level which is two levels below County department head) required by the lead lease negotiator/administrator for technical expertise or assistance. In those instances in which Lessee is obligated to reimburse County for its Actual Costs incurred in performing obligations required to be performed by Lessee under this Lease which Lessee fails to perform within the applicable cure period, if any, provided under this Lease, Actual Costs shall also include a reasonable allocation of County overhead and administrative costs to compensate County for performing such obligations on behalf of Lessee.

1.1.3 "ADA" shall have the meaning set forth in Section 1.2.

1.1.4 "ADJUSTMENT DATES" shall have the meaning set forth in subsection 4.2.3.

1.1.5 "ADMINISTRATIVE CHARGE" shall have the meaning set forth in Section 4.6.

1.1.6 "AGGREGATE TRANSFER" shall have the meaning set forth in subsection 4.6.3.

1.1.7 "ANCHORAGE FACILITIES" shall have the meaning set forth in Section 5.1.

1.1.8 "ANCHORAGE FACILITIES QUALITY STANDARD" shall have the meaning set forth in Section 5.1.

1.1.9 "ANCHORAGE WORK" shall have the meaning set forth in Section 5.1.

1.1.10 "ANNUAL MINIMUM RENT" shall have the meaning set forth in subsection 4.2.1.

1.1.11 "APPLICABLE LAWS" shall have the meaning set forth in subsection 1.2.1.

1.1.12 "APPLICABLE RATE" shall mean an annually compounded rate of interest equal to the lesser of (a) ten percent (10%) per annum or (b) the Prime Rate plus three percent (3%) per annum; however, the Applicable Rate shall in no event exceed the maximum rate of interest which may be charged pursuant to Applicable Laws. In the event that the Applicable Rate as determined by the first sentence of this definition exceeds such maximum rate of interest, then the Applicable Rate shall be deemed the maximum rate permissible under Applicable Laws notwithstanding the first sentence of this definition.

1.1.13 "APPROVED APARTMENT/SLIP LEASE" shall have the meaning set forth in subsection 11.1.2.

- 1.1.14 "APPROVED GOVERNMENTAL CHANGES" shall have the meaning set forth in Section 6.3.1 of the Option Agreement.
- 1.1.15 "ASSIGNMENT STANDARDS" shall have the meaning set forth in Section 11.2.
- 1.1.16 "AUDITOR-CONTROLLER" shall mean the Auditor-Controller of the County of Los Angeles, California.
- 1.1.17 "AWARD" shall have the meaning set forth in subsection 6.1.3.
- 1.1.18 "BASE VALUE" shall have the meaning set forth in subsection 4.8.1.1.
- 1.1.19 "BENEFICIAL INTEREST" shall have the meaning set forth in subsection 4.6.4.
- 1.1.20 "BOARD" shall mean the Board of Supervisors for the County of Los Angeles.
- 1.1.21 "BUSINESS DAY" shall have the meaning set forth in Section 17.3.
- 1.1.22 "CALCULATION NOTICE" shall have the meaning set forth in Section 4.7.
- 1.1.23 "CAPITAL RESERVE FUND" shall have the meaning set forth in Section 5.14.
- 1.1.24 "CHANGE OF OWNERSHIP" shall have the meaning set forth in subsection 4.6.1.
- 1.1.25 "CHANGE OF CONTROL" shall have the meaning set forth in subsection 4.6.1.
- 1.1.26 "CITY" shall mean the City of Los Angeles, California.
- 1.1.27 "COMPLETION DATE" shall mean the date of receipt of the first Temporary Certificate of Occupancy or other applicable governmental permit, certificate or approval for the legal occupancy of any apartment building constructed on the Premises as part of the Redevelopment Work pursuant to Article 5 of this Lease.
- 1.1.28 "CONDEMNATION" shall have the meaning set forth in subsection 6.1.1.
- 1.1.29 "CONDEMNOR" shall have the meaning set forth in subsection 6.1.4.
- 1.1.30 "CONSUMER PRICE INDEX" shall mean the Consumer Price Index-All Urban Consumers for Los Angeles/Riverside/Orange Counties, as published from time to time by the United States Department of Labor or, in the event such index is no

longer published or otherwise available, such replacement index as may be agreed upon by County and Lessee.

1.1.31 "COUNTY" shall have the meaning set forth in the first paragraph of this Lease.

1.1.32 "COUNTY OPTION" shall have the meaning set forth in subsection 11.2.4.

1.1.33 "COUNTY OPTION PRICE" shall have the meaning set forth in subsection 11.2.4.

1.1.34 "COUNTY POOL RATE" shall have the meaning set forth in subsection 4.3.5 of this Lease.

1.1.35 "DATE OF TAKING" shall have the meaning set forth in subsection 6.1.2.

1.1.36 "DEPARTMENT" shall mean the Department of Beaches and Harbors of the County of Los Angeles.

1.1.37 "DIRECTOR" shall mean the Director of the Department of Beaches and Harbors of the County of Los Angeles or any successor County officer responsible for the administration of this Lease.

1.1.38 "DISQUALIFICATION JUDGMENT" shall have the meaning set forth in subsection 16.15.1.

1.1.39 "DOCUMENTED TRANSACTION COSTS" shall have the meaning set forth in subsection 4.8.1.2.

1.1.40 "EFFECTIVE DATE" shall mean the date set forth in the first preamble paragraph of this Lease.

1.1.41 "ENCUMBRANCE" shall have the meaning set forth in subsection 12.1.1.

1.1.42 "ENCUMBRANCE HOLDER" shall have the meaning set forth in subsection 12.1.1.

1.1.43 "ENR INDEX" shall mean the Engineering News Record (ENR) Construction Cost Index for the Los Angeles Area, or such substitute index as the parties may mutually agree upon if such index is no longer published or otherwise available.

1.1.44 "EVENTS OF DEFAULT" shall have the meaning set forth in Section 13.1.

- 1.1.45 "EXCESS PERCENTAGE RENT PAYMENT" shall have the meaning set forth in subsection 4.2.2.4.
- 1.1.46 "EXISTING APARTMENTS" shall mean the 136 apartments existing on the Premises as of the Effective Date.
- 1.1.47 "EXISTING EXPIRATION DATE" shall have the meaning set forth in the preamble to this Lease.
- 1.1.48 "EXISTING LEASE" shall have the meaning set forth in the preamble to this Lease.
- 1.1.49 "EXTENDED TIME" shall have the meaning set forth in Section 15.15.
- 1.1.50 "EXTENSION FEE" shall have the meaning set forth in Section 2.2.
- 1.1.51 "EXTENSION FEE BALANCE" shall have the meaning set forth in Section 2.2.
- 1.1.52 "EXTENSION FEE DOWNPAYMENT" shall have the meaning set forth in Section 2.2.
- 1.1.53 "EXTENSION PAYMENT" shall have the meaning set forth in Section 2.2 of this Lease.
- 1.1.54 "FAIR MARKET RENTAL VALUE" shall have the meaning set forth in subsection 4.3.1.
- 1.1.55 "FINAL ALTERATION PLANS AND SPECIFICATIONS" shall have the meaning set forth in subsection 5.3.3.
- 1.1.56 "FINAL REDEVELOPMENT WORK PLANS AND SPECIFICATIONS" shall have the meaning set forth in subsection 5.1.1.
- 1.1.57 "FINANCING EVENT" shall have the meaning set forth in Section 12.1.
- 1.1.58 "FIRST ADJUSTMENT DATE" shall have the meaning set forth in subsection 4.2.1.
- 1.1.59 "FORCE MAJEURE" shall have the meaning set forth in Section 5.6.
- 1.1.60 "GROSS ERROR" shall have the meaning set forth in subsection 16.15.4.
- 1.1.61 "GROSS TRANSFER PROCEEDS" shall have the meaning set forth in Section 4.8.

1.1.62 "GROSS RECEIPTS" shall have the meaning set forth in subsection 4.2.2.3.

1.1.63 "IMPROVEMENTS" means all buildings, structures, fixtures, docks, anchorage facilities, fences, fountains, walls, paving, parking areas, driveways, walkways, plazas, landscaping, permanently affixed utility systems and other improvements now or hereafter located on the Premises.

1.1.64 "IMPROVEMENT COSTS" shall have the meaning set forth in subsection 4.8.1.1.

1.1.65 "INCOME APPROACH" shall have the meaning set forth in Section 6.5.

1.1.66 "INITIATING PARTY" shall have the meaning set forth in the first paragraph of Article 16.

1.1.67 "INSTITUTIONAL LENDER" shall have the meaning set forth in subsection 12.1.3.1

1.1.68 "INSURANCE RENEGOTIATION DATE" shall have the meaning set forth in Section 9.3.

1.1.69 "LANDSIDE WORK" shall have the meaning set forth in Section 5.1.

1.1.70 "LATE FEE" shall have the meaning set forth in Section 4.5.

1.1.71 "LEASE" shall mean this Amended and Restated Lease Agreement.

1.1.72 "LEASE YEAR" shall have the meaning set forth in Section 2.1.

1.1.73 "LESSEE" shall have the meaning set forth in the first paragraph of this Lease.

1.1.74 "LESSEE SALE PRICE" shall have the meaning set forth in subsection 11.2.4.

1.1.75 "MAJOR SUBLEASE" shall have the meaning set forth in subsection 11.1.1.

1.1.76 "MAJOR SUBLESSEE" shall have the meaning set forth in subsection 11.1.1.

1.1.77 "MINIMUM STANDARDS" shall mean the requirements of Policy Statement No. 25 and the Specifications and Minimum Standards of Architectural Treatment and Construction for Marina del Rey approved in 1989, as modified by County or the Department from time to time in a manner consistent with commercially

reasonable standards applicable to other comparable residential apartment project and marina facilities in Marina del Rey (the "Minimum Standards").

1.1.78 "MONTHLY MINIMUM RENT" shall have the meaning set forth in subsection 4.2.1.

1.1.79 "NET AWARDS AND PAYMENTS" shall have the meaning set forth in Section 6.7.

1.1.80 "NET PROCEEDS SHARE" shall have the meaning set forth in Section 4.6.

1.1.81 "NET REFINANCING PROCEEDS" shall have the meaning set forth in subsection 4.8.5.

1.1.82 "NET TRANSFER PROCEEDS" shall have the meanings set forth in subsections 4.8.1 and 4.8.2.

1.1.83 "NOTICE OF COMPLETION" shall have the meaning set forth in subsection 5.8.7.

1.1.84 "OPTION" shall have the meaning set forth in the preamble to this Lease.

1.1.85 "OPTION AGREEMENT" shall have the meaning set forth in the preamble to this Lease.

1.1.86 "PARTIAL TAKING" shall have the meaning set forth in Section 6.5.

1.1.87 "PAYMENT BOND" shall have the meaning set forth in subsection 5.4.3.2.

1.1.88 "PERCENTAGE RENT" shall have the meaning set forth in subsection 4.2.2.

1.1.89 "PERFORMANCE BOND" shall have the meaning set forth in subsection 5.4.3.1.

1.1.90 "PERMITTED USES" shall have the meaning set forth in Section 3.1.

1.1.91 "PREMISES" shall have the meaning set forth in the preamble to this Lease.

1.1.92 "PRIME RATE" shall mean the prime or reference rate announced from time to time by Bank of America, N.A. or its successor, or if Bank of America, N.A. and its successor cease to exist then the prime or reference rate announced from time to time by the largest state chartered bank in California in term of deposits.

- 1.1.93 "PROPOSED TRANSFER" shall have the meaning set forth in subsection 11.2.4.
- 1.1.94 "PUBLIC DOCKS" shall have the meaning set forth in subsection 5.1.
- 1.1.95 "PUBLIC DOCKS WORK" shall have the meaning set forth in subsection 5.1.
- 1.1.96 "PUBLIC WORKS DIRECTOR" shall mean the Director of the Department of Public Works of the County of Los Angeles.
- 1.1.97 "PURCHASE MONEY NOTE" shall have the meaning set forth in subsection 4.7.2.
- 1.1.98 "REDEVELOPMENT WORK" shall have the meaning set forth in Section 5.1.
- 1.1.99 "RENEGOTIATION DATES" shall have the meaning set forth in Section 4.3.
- 1.1.100 "RENOVATION FUND" shall have the meaning set forth in Section 15.13.
- 1.1.101 "REPLY" shall have the meaning set forth in Section 16.5.
- 1.1.102 "REQUIRED CONSTRUCTION COMMENCEMENT DATE" shall have the meaning set forth in Section 5.1.
- 1.1.103 "REQUIRED CONSTRUCTION COMPLETION DATE" shall have the meaning set forth in Section 5.1.
- 1.1.104 "RESPONDING PARTY" shall have the meaning set forth in the first paragraph of Article 16.
- 1.1.105 "SEAWALL" shall have the meaning set forth in Section 10.7.
- 1.1.106 "SECTION" shall mean a section of this Lease.
- 1.1.107 "SECURITY DEPOSIT" shall have the meaning set forth in Section 7.1.
- 1.1.108 "SHALL" and "WILL" are mandatory and the word "MAY" is permissive.
- 1.1.109 "STABILIZATION DATE" shall have the meaning set forth in Section 4.4.
- 1.1.110 "STATE" shall mean the State of California.

- 1.1.111 "STATEMENT OF POSITION" shall have the meaning set forth in subsection 16.6.
- 1.1.112 "SUBLEASE" shall have the meaning set forth in subsection 11.1.1.
- 1.1.113 "SUBLESSEE" shall have the meaning set forth in subsection 11.1.1.
- 1.1.114 "SUBSECTION" shall mean a subsection of a Section of this Lease.
- 1.1.115 "SUBSTANTIAL COMMENCEMENT OF CONSTRUCTION" shall have the meaning set forth in Section 5.1.
- 1.1.116 "SUBSTANTIAL COMPLETION" shall have the meaning set forth in Section 5.1.
- 1.1.117 "TERM" shall have the meaning set forth in Section 2.1.
- 1.1.118 "TIME OF THE ESSENCE" shall have the meaning set forth in Section 15.2.
- 1.1.119 "UNINSURED LOSS" shall have the meaning set forth in Section 10.5.
- 1.1.120 "UNREASONABLE COUNTY ACT" shall have the meaning set forth in subsection 5.7.2.
- 1.1.121 "WRITTEN APPRAISAL EVIDENCE" shall have the meaning set forth in Section 16.7.

1.2 Lease. For and in consideration of the payment of rentals and the performance of all the covenants and conditions of this Lease, County hereby leases to Lessee, and Lessee hereby leases and hires from County, an exclusive right to possess and use, as tenant, the Premises for the Term (as hereinafter defined) and upon the terms and conditions and subject to the requirements set forth herein.

1.2.1 As-Is. Lessee acknowledges that (1) it is currently in possession of the Premises, (2) Lessee or its predecessors-in-interest have continuously occupied and/or managed and operated the Premises since 1962, and (3) the Improvements now existing on the Premises were constructed by Lessee or its predecessors with contractors selected by them. Except as provided in Section 1.4, Lessee accepts the Premises in their present condition notwithstanding the fact that there may be certain defects in the Premises, whether or not known to either party to this Lease, at the time of the Effective Date and Lessee hereby represents that it has performed all investigations necessary, including without limitation soils and engineering inspections, in connection with its acceptance of the Premises "AS IS WITH ALL FAULTS". Lessee hereby accepts the Premises on an "AS IS WITH ALL FAULTS" basis and, except as expressly set forth in this Lease, Lessee is not relying on any representation or warranty of any kind whatsoever, express or implied, from County or any other governmental authority or public agency, or their

respective agents or employees, as to any matters concerning the Premises and/or any Improvements located thereon, including without limitation: (i) the quality, nature, adequacy and physical condition and aspects of the Premises and/or any Improvements located thereon, including, but not limited to, the structural elements, foundation, roof, protections against ocean damage, erosion, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage and utility systems, facilities and appliances, and the square footage of the land and within the Improvements and within each space therein, (ii) the quality, nature, adequacy and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Premises and/or any Improvements located thereon, (iv) the development potential of the Premises, and the use, habitability, merchantability or fitness, or the suitability, value or adequacy of the Premises and/or any Improvements located thereon for any particular purpose, (v) the zoning or other legal status or entitlement or lack thereof of the Premises or any other public or private restrictions on use of the Premises, (vi) the compliance of the Premises and/or any Improvements located thereon with any applicable codes, laws, rules, regulations, statutes, resolutions, ordinances, covenants, conditions and restrictions of County, City, State, the United States of America, the California Coastal Commission and/or any other governmental or quasi-governmental entity ("Applicable Laws") or of any other person or entity (including, without limitation, relevant provisions of the Americans with Disabilities Act ("ADA")), (vii) the presence of any underground storage tank or hazardous materials on, under or about the Premises or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any Improvements, (ix) subject to Section 1.3 below, the condition of title to the Premises, and (x) the economics of the operation of the Premises and/or any Improvements located thereon. Notwithstanding the foregoing, this subsection 1.2.1 shall not alter the parties' rights and obligations under the Existing Lease with respect to any environmental conditions existing on the Premises as of the Effective Date.

1.3 Title. County represents that County owns fee title to the Premises and that County has authority to enter into this Lease. Lessee hereby acknowledges the title of County in and to the Premises, and covenants and agrees never to contest or challenge the extent of said title, except as is necessary to ensure that Lessee may occupy the Premises pursuant to the terms and conditions of this Lease.

1.4 Excluded Conditions. Notwithstanding anything to the contrary set forth herein, the terms and provisions of subsection 1.2.1 shall not be applicable to any sewer, storm drain or other improvements which have been dedicated to (and such dedication has been accepted by) the Department of Public Works of the County ("Excluded Conditions"); provided, however, that this Lease (as opposed to any separate dedication acceptance or other contractual or legal obligation) shall not create any obligation or liability on the part of County with respect to such sewer, storm drain and other improvements.

2. TERM.

2.1 Term. The term of this Lease ("Term") for the Premises commenced on March 1, 1962. Unless terminated sooner in accordance with the provisions of this Lease, the Term shall

expire at 11:59 p.m. on February 28, 2061. For purposes of this Lease, "Lease Year" shall mean each calendar year (or partial calendar) during the Term of this Lease. Notwithstanding the foregoing, with respect to any provision in this Lease that refers to a specified number of Lease Years after the Effective Date, the number of Lease Years after the Effective Date shall be calculated based on the following: (a) if the Effective Date is prior to July 1 of a calendar year, then the first Lease Year after the Effective Date shall mean the period from the Effective Date through December 31 of the calendar year during which the Effective Date occurs, and (b) if the Effective Date is on or after July 1 of a calendar year, then the first Lease Year shall mean the period from the Effective Date through December 31 of the calendar year following the calendar year during which the Effective Date occurs.

2.2 Extension Payments. In consideration for County's agreement to enter into this Lease, Lessee shall pay to County as hereinafter provided the principal sum of One Million Dollars (\$1,000,000.00) (the "Extension Fee"). County received the first One Hundred Thousand Dollars (\$100,000.00) of the Extension Fee in the form of the Option Fee that was paid by Lessee by County concurrent with the execution of the Option Agreement. The remaining portion of the Extension Fee balance of Nine Hundred Thousand Dollars (\$900,000.00) (the "Extension Fee Balance") that remains unpaid from time to time shall bear interest from the Effective Date until the date of payment at an annual rate, compounded annually, equal to the Prime Rate in effect from time to time. The initial interest rate shall be the Prime Rate in effect on the Effective Date. The interest rate shall adjust thereafter on an annual basis on each anniversary of the Effective Date to the Prime Rate in effect on each such anniversary. Commencing on the first anniversary of the Effective Date and continuing on each successive anniversary of the Effective Date thereafter during the ten (10) year period following the Effective Date Lessee shall make annual payments of the Extension Fee in an amount of Ninety Thousand Dollars (\$90,000.00) each, plus interest accrued on the outstanding unpaid balance of the Extension Fee (each, an "Extension Payment"). The entire outstanding unpaid principal balance of the Extension Fee and all accrued and unpaid interest shall be due and payable on the tenth (10th) anniversary of the Effective Date. The unpaid balance of the Extension Fee (including accrued interest thereon), may be prepaid by Lessee, in whole or in part, at any time. Any uncured failure by Lessee to make an Extension Payment or to repay the entire unpaid Extension Fee and accrued interest on or before the tenth (10th) anniversary of the Effective Date is acknowledged to be a monetary default of the terms and conditions of this Lease and shall give rise to County's remedies as set forth herein, including without limitation County's right to receive a Late Fee in connection with such late payment and/or County's right to terminate this Lease in accordance with Article 13. Upon the occurrence of an Event of Default, County shall have the right to declare the entire remaining unpaid Extension Fee (including accrued, but unpaid interest) immediately due and payable.

2.3 Intentionally Omitted

2.4 Ownership of Improvements During Term. Until the expiration of the Term or sooner termination of this Lease and except as specifically provided herein, Lessee shall own all Improvements now existing and constructed by Lessee or its predecessors or hereafter constructed by Lessee upon the Premises, and all alterations, additions, or betterments made thereto by Lessee.

2.5 Reversion of Improvements. Upon the expiration of the Term or sooner termination of this Lease, whether by cancellation, forfeiture or otherwise:

2.5.1 County's Election to Receive Improvements. At the election of County, all structures, buildings, Improvements and all alterations, additions, and betterments thereto, and all other Improvements made to or upon the Premises shall remain upon and be surrendered with the Premises as part thereof and title thereto shall vest in County without compensation therefor to Lessee. Nothing contained herein shall be construed to deny or abrogate the right of Lessee, prior to the expiration of the Term or termination of this Lease, to receive any and all proceeds which are attributable to the Condemnation of business installations, Improvements, structures and buildings belonging to Lessee immediately prior to the taking of possession by the Condemnor as said rights are set forth in Article 6 of this Lease, or to remove any furniture or equipment not intended to be permanently affixed to, or reasonably necessary for the operation of, the Premises, any signage identifying Lessee (as opposed to other signage used in the operation of the Premises and associated Improvements), or any personal property, upon the expiration of the Term or earlier termination of this Lease or at any time during the Term, subject to Lessee's obligations under this Lease to use the Premises for the Permitted Uses.

2.5.2 Duty to Remove. No earlier than eight (8) years, and no later than seven (7) years prior to the expiration of the Term, Lessee shall deliver to County a report prepared by a construction and demolition expert approved by County, such approval not to be unreasonably withheld or delayed, which report details and estimates the cost of removing all Improvements on the Premises at the expiration of the Term. County may give written notice (the "County Removal Notice") at any time, no later than six (6) years prior to the expiration of the Term or concurrently upon any earlier termination, of County's election to require Lessee to remove, at the sole cost and expense of Lessee, not later than the expiration of the Term or earlier termination of this Lease, all or any portion of the at grade, above grade and below grade Improvements of any kind whatsoever placed or maintained on the Premises, whether placed thereon or maintained by Lessee or others, including, but not limited to, concrete foundations, pilings, structures and buildings; and if such structures are required to be removed by Lessee, then Lessee shall, upon the expiration or termination of this Lease, immediately restore, and quit, and peacefully surrender possession of, the Premises to County in good, usable and buildable condition, consisting of a level, graded buildable pad with no excavations, hollows, hills or humps. Lessee shall have the right, by written notice to County not later than thirty (30) days prior to the expiration of the Term, to extend the date by which Lessee must complete the Improvement removal and Premises surrender obligations under this subsection 2.5.2 and/or the Lessee's removal obligations under subsection 2.5.4 below to a date not more than one hundred twenty (120) days after the expiration of the Term; provided, however, that all of the Lessee's obligations and liabilities under the Lease (other than the obligation to affirmatively operate the Premises) shall be applicable during such additional period, including without limitation, the Lessee's obligations with respect to insurance and indemnification, and Lessee's obligation to pay County compensation for such period in an amount equal to the Monthly Minimum Rent rate in effect immediately prior to the expiration of the Term.

If County elects to require Lessee to remove Improvements hereunder pursuant to the County Removal Notice, Lessee shall, no later than the date which is thirty (30) days after Lessee's receipt of the County Removal Notice, provide County with a written plan which sets forth Lessee's proposed method of securing the discharge of Lessee's removal and restoration obligations pursuant to this subsection. Such security plan shall detail (i) the form of security proposed by Lessee, which security shall be either a deposit of funds, or a letter of credit, bond or other form of security in form and amount, and from an issuer, satisfactory to County, and (ii) a schedule satisfactory to County for the delivery by Lessee of the security described in clause (i) above, which schedule shall in all events provide for a full funding of the security not later than two (2) years prior to the expiration of the Term. The amount of the deposit or letter of credit, bond or other security shall be no less than the estimated costs to remove the Improvements set forth in the report described above, adjusted annually to reflect the increase or decrease, if any, in the ENR Index over the ENR Index as of the date of cost estimation set forth in such expert report; provided, however, that in no event shall such adjustment result in a deposit or letter of credit, bond or other security of an amount less than that set forth in the expert report. Any uncured failure by Lessee to deliver the removal and restoration security described in this subsection 2.5.2 shall constitute an Event of Default. If County fails to elect to require Lessee to remove the buildings, structures and Improvements on the Premises as provided above, then upon the expiration of the Term, or earlier termination of the Lease, Lessee shall turn over the Premises to County in good and workmanlike condition, consistent with the condition of other buildings, structures and Improvements of comparable age and construction quality.

2.5.3 County's Right to Remove Improvements. Should Lessee fail to so remove said structures, buildings and Improvements and restore the Premises, County may sell, remove or demolish the same, in event of which sale, removal or demolition Lessee shall reimburse County for any cost or expense thereof in excess of any funds received by County through the security above provided and any consideration received by County as a result of such sale, removal or demolition.

2.5.4 Duty to Remove Equipment, Etc. No later than the expiration of the Term or sooner termination of this Lease (or within the additional one hundred twenty (120) day period described in subsection 2.5.2 above), Lessee shall in any event remove at its cost and expense such furniture, equipment and personal property as are not firmly affixed to said structures, buildings and Improvements or reasonably necessary for the orderly operation of the Premises. Should Lessee fail to so remove said furniture, equipment and personal property within said period, and said failure continues for thirty (30) days after written notice from County to Lessee, Lessee shall lose all right, title and interest in and thereto, and County may elect to keep the same upon the Premises or to sell, remove, or demolish the same, in event of which sale, removal, or demolition Lessee shall reimburse County for its Actual Costs incurred in connection with such sale, removal or demolition in excess of any consideration received by County as a result of said sale, removal or demolition.

2.5.5 Title to Certain Improvements Passes to County; Lessee to Maintain. As between County and Lessee, title to all utility lines, transformer vaults and all other

utility facilities constructed or installed by Lessee upon the Premises shall vest in County upon construction or installation to the extent that they are not owned by a utility company or other third party provider. Notwithstanding that title shall vest in County, all utility lines, transformer vaults and all other utility facilities (other than any sewer, storm drain or other utility systems which have been dedicated to and accepted by County pursuant to a dedication separate from this Lease), shall be maintained, repaired, and replaced, if and as needed, by Lessee during the Term.

3. USE OF PREMISES.

3.1 Specific Primary Use. The Premises shall be used by Lessee for the operation and management of (i) a luxury residential apartment project, (ii) boat anchorage facilities, including transient boat accommodations and liveaboards, and (iii) such other related and incidental uses as are specifically approved by County (collectively, the foregoing shall be referred to herein as the "Permitted Uses"). Except as specifically provided herein, the Premises shall be used for no other purpose without the prior written consent of County. County makes no representation or warranty regarding the continued legality of the Permitted Uses or any of them, and Lessee bears all risk of an adverse change in Applicable Laws.

3.2 Prohibited Uses. Notwithstanding the foregoing:

3.2.1 Nuisance. Lessee shall not conduct or permit to be conducted any private or public nuisance on or about the Premises, nor commit any waste thereon. No rubbish, trash, waste, residue, brush, weeds or undergrowth or debris of any kind or character shall ever be placed or permitted to accumulate upon any portion of the Premises, except in appropriate receptacles intended for such purposes, nor shall any portion of the Premises be maintained so as to render said Premises a fire hazard or unsanitary, unsightly, offensive, or an imminent risk to public health and safety, nor shall any similar activity be permitted on any adjacent public street or adjacent property. Lessee shall be permitted to perform the Redevelopment Work on the Premises, provided that such work is conducted in compliance with Article 5 of this Lease.

3.2.2 Restrictions and Prohibited Uses. Without expanding upon or enlarging the Permitted Uses of the Premises as set forth in this Lease, the following uses of the Premises are expressly prohibited:

3.2.2.1 The Premises shall not be used or developed in any way which is in violation of any Applicable Laws;

3.2.2.2 The Premises shall not be used or developed in any way in a manner inconsistent with the Permitted Uses. Without limiting the foregoing, no part of the Premises shall be used by any person for any adult entertainment purposes, as such term refers to graphic, explicit and/or obscene depictions of sexual activity; provided, however, that this subsection 3.2.2.2 shall not be interpreted to regulate in violation of Applicable Law the private activity of an individual that is confined to such individual's private residence;

3.2.2.3 No improvement on the Premises shall be permitted to fall into disrepair and all Improvements shall at all times be kept in good condition and repair consistent with the requirements of Section 10.1 of this Lease;

3.2.2.4 No condition shall be permitted to exist upon the Premises which shall induce, breed or harbor infectious plant diseases, rodents, or noxious insects and Lessee shall take such measures as are appropriate to prevent any conditions from existing on the Premises which create a danger to the health or safety of any persons residing or working at, or persons patronizing, the Premises;

3.2.2.5 Without the prior written reasonable approval of Director, no antennae or other device for the transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained by Lessee outdoors above ground on any portion of the Premises, whether attached to an improvement or otherwise; provided that the foregoing requirement to obtain Director's approval as to any antennae or other transmission or reception devices shall be inapplicable to the extent that such requirement violates Applicable Law;

3.2.2.6 No tools, equipment, or other structure designed for use in boring for water, oil, gas or other subterranean minerals or other substances, or designed for use in any mining operation or exploration, shall hereafter be erected or placed upon or adjacent to the Premises, except (i) as is necessary to allow Lessee to perform its maintenance and repair obligations pursuant to this Lease, and (ii) for such boring or drilling as necessary to perform water testing or monitoring, or any dewatering program to relieve soil water pressure;

3.2.2.7 Except for the Excluded Conditions and the Seawall, no adverse environmental condition in violation of Applicable Laws shall be permitted to exist on any portion of the Premises, nor shall any toxic or hazardous wastes be permitted to be generated, treated, stored, disposed of, or otherwise deposited in or on or allowed to emanate from the Premises or any portion thereof, including, without limitation, into the surface waters and subsurface waters thereof; provided, however, that toxic or hazardous substances may be stored or used, so long as such storage and use is (a) ancillary to the ordinary course of business of an otherwise Permitted Use with the intent that such substances will be used in the ordinary course of business, and (b) conducted in compliance with all Applicable Laws; and

3.2.2.8 The following uses shall not be permitted: (a) fuel sales; (b) boat or vehicle repair, other than minor servicing or owner maintenance; (c) live bait sales; (d) commercial sportfishing and tour boats; or (e) trailer boat launching or storage; provided, however, that facilities for handling and storing dinghies, small skiffs and similar craft may be permitted upon prior approval in writing from Director.

3.3 Active Public Use. The parties acknowledge that the ultimate objective of this Lease is the complete and continuous use of the facilities and amenities located in Marina del Rey by and for the benefit of the public, without discrimination as to race, gender or religion, along with the generation and realization of revenue therefrom. Accordingly, Lessee agrees and covenants that it will operate the Premises fully and continuously (except to the extent that Lessee is prevented from doing so due to Force Majeure or due to temporary interruption for maintenance and repair) in light of these objectives, consistent with the operation of luxury residential apartment and boat anchorage facilities, and that it will use commercially reasonable efforts so that County may obtain maximum revenue therefrom as contemplated by this Lease. In the event of any dispute or controversy relating hereto, this Lease shall be construed with due regard to the aforementioned objectives.

3.4 Days of Operation. The Promenade (as defined in Section 15.19) shall be open every day of the year. Lessee shall maintain a dockmaster on duty in accordance with a schedule approved by County, which approval shall not be unreasonably withheld. Any changes in the days and/or hours of operation of the Promenade and/or dockmaster shall be subject to the written approval of County.

3.5 Signs and Awnings. Any and all art, displays, identifications, monuments, awnings, advertising signs and banners which are placed on, or are visible from, the exterior of the Premises shall be only of such size, design, wording of signs and color as shall have been specifically submitted to and approved by Director (and to the extent required under then Applicable Law, the Design Control Board), whether pursuant to Article 5 of this Lease or otherwise, in writing, prior to the erection or installation of said art, sign, display, identification, monument, awning or advertising sign. Director shall not unreasonably withhold its approval of the matters described in this Section 3.5. Any dispute as to whether Director has unreasonably withheld its approval of a matter described in this Section 3.5 shall be submitted to arbitration pursuant to Article 16 of this Lease.

3.6 Compliance with Regulations. Lessee shall comply with all Applicable Laws and shall pay for and maintain any and all licenses and permits related to or affecting the use, operation, maintenance, repair or improvement of the Premises. Without limitation of the foregoing, Lessee shall comply with (i) all conditions and requirements of Coastal Development Permit No(s). _____ **[PRIOR TO LEASE EXECUTION INSERT COASTAL DEVELOPMENT PERMIT NO(S). ISSUED FOR REDEVELOPMENT WORK]**, which conditions and requirements are attached to this Lease as Exhibit E and incorporated herein by this reference, and (ii) all public access requirements of the Marina del Rey Local Coastal Program, as amended. **[PRIOR TO LEASE EXECUTION INSERT REFERENCE TO THE AFFORDABLE HOUSING REQUIREMENTS APPLICABLE TO THE PREMISES IN ACCORDANCE WITH SECTION 8 OF THE OPTION AGREEMENT AND FINAL ENTITLEMENTS.]**

3.7 Rules and Regulations. Lessee agrees to comply with such other reasonable rules and regulations governing the use and occupancy of the Premises as may be promulgated by County from time to time for general applicability on a non-discriminatory basis to other residential apartment and/or boat anchorage facilities in Marina del Rey, and delivered in writing to Lessee. Any dispute as to whether County has acted unreasonably in connection with the

matters described in this Section 3.7 shall be submitted to arbitration pursuant to Article 16 of this Lease.

3.8 Reservations. Lessee expressly agrees that this Lease and all rights hereunder shall be subject to all prior encumbrances, reservations, licenses, easements and rights of way existing as of the date of the Existing Lease or otherwise referenced in this Lease in, to, over or affecting the Premises for any purpose whatsoever, and also subject to any other encumbrances, reservations, licenses, easements and rights of way consented to by Lessee.

Without limiting the foregoing, Lessee expressly agrees that this Lease and all rights hereunder shall be subject to all prior matters of record and the right of County or City existing as of the Effective Date or otherwise disclosed to or known to Lessee, as their interests may appear, to install, construct, maintain, service and operate sanitary sewers, public roads and sidewalks, fire access roads, storm drains, drainage facilities, electric power lines, telephone lines and access and utility easements across, upon or under the Premises, together with the right of County or the City to convey such easements and transfer such rights to others. Notwithstanding the foregoing or anything herein to the contrary, County agrees to cooperate with Lessee, at Lessee's cost, in Lessee's efforts to address title matters, if any, which would prevent Lessee from proceeding with the redevelopment of the Premises in accordance with the Redevelopment Work, as long as such efforts do not materially adversely affect the County (e.g., cooperating with Lessee in the relocation at Lessee's cost of any easements which interfere with the Redevelopment Work, to the extent such relocation is reasonably acceptable to County).

4. PAYMENTS TO COUNTY.

4.1 Net Lease. The parties acknowledge that the rent to be paid by Lessee under this Lease is intended to be absolutely net to County. The rent and other sums to be paid to County hereunder are not subject to any demand, set-off or other withholding. Except as specifically set forth herein, Lessee shall be solely responsible for all capital costs (including, without limitation, all structural and roof repairs or replacements) and operating expenses attributable to the operation and maintenance of the Premises, including without limitation the parking areas included within the Premises.

4.1.1 Utilities. In addition to the rental charges as herein provided, Lessee shall pay, or cause to be paid, all utility and service charges for furnishing water, power, sewage disposal, light, telephone service, garbage and trash collection and all other utilities and services, to said Premises.

4.1.2 Taxes and Assessments. Lessee agrees to pay before delinquency all lawful taxes, assessments, fees, or charges which at any time may be levied by the State, County, City or any tax or assessment levying body upon any interest in this Lease or any possessory right which Lessee may have in or to the Premises covered hereby or to the Improvements thereon for any reason, as well as all taxes, assessments, fees, and charges on goods, merchandise, fixtures, appliances, equipment, and property owned by it in, on or about the Premises. Lessee's obligation to pay taxes and assessments hereunder shall include but is not limited to the obligation to pay any taxes and/or assessments, or increases in taxes and/or assessments arising as a result of the grant to Lessee of the

Option or Lessee's exercise thereof. Lessee shall have the right to contest the amount of any assessment imposed against the Premises or the possessory interest therein; provided, however, the entire expense of any such contest (including interest and penalties which may accrue in respect of such taxes) shall be the responsibility of Lessee.

The parties acknowledge that the Premises are and shall continue to be subject to possessory interest taxes, and that such taxes shall be paid by Lessee. This statement is intended to comply with Section 107.6 of the Revenue and Taxation Code. Lessee shall include a statement in all Subleases to the effect that the interests created therein are derived from the Lessee's interest under this Lease and that Lessee's interest requires the payment of a possessory interest tax.

4.2 Rental Payments. Throughout the Term, for the possession and use of the Premises granted herein, Lessee shall pay County (a) the Annual Minimum Rent described in subsection 4.2.1 below, and (b) the Percentage Rent described in subsection 4.2.2 below. For purposes of this Lease "Annual Rent" shall mean the aggregate of the Annual Minimum Rent and Percentage Rent

4.2.1 Annual Minimum Rent and Monthly Minimum Rent. Lessee shall pay to County the minimum rent described in this subsection 4.2.1 (subject to adjustment pursuant to Sections 4.2.3 and 4.3 below) during each Lease Year of the Term (the "Annual Minimum Rent"). Annual Minimum Rent shall be payable by Lessee to County on a monthly basis in equal installments of one-twelfth (1/12th) of the Annual Minimum Rent (the "Monthly Minimum Rent"); provided, however, if any Lease Year is shorter or longer than a calendar year, then the Annual Minimum Rent shall be calculated on a pro rata basis based on the number of days in the applicable period as compared to 365, and Monthly Minimum Rent shall be payable in equal monthly installments of such pro rata Annual Minimum Rent. During each Lease Year (or portion thereof) during the period from the Effective Date through the day preceding the fifth (5th) anniversary of the Effective Date (the "First Adjustment Date"), the Annual Minimum Rent shall be equal to the annual square foot rental that was payable by Lessee under the Existing Lease for the last full year prior to the Effective Date.

4.2.2 Percentage Rent. For the purposes of this Lease, "Percentage Rent" for any given month or year shall be defined as the sum of the amounts set forth in this Section 4.2.2, less the Annual Minimum Rent for such month or year. Gross Receipts (as defined herein) from each transaction, sale or activity of Lessee and/or any sublessee shall be reported under one or more of the following percentage categories, as applicable. It is understood that Article 3 of this Lease provides for the Permitted Uses of the Premises and that the percentage categories listed below are not all applicable to this Lease and are in no way intended to expand or modify the Permitted Uses. Director, by Policy Statement and with the approval of Lessee, Auditor-Controller and County Counsel, has interpreted and may further interpret the percentage categories as set forth in this subsection 4.2.2, with such determinations and interpretations to be a guideline in determining the appropriate categories. Within fifteen (15) days after the close of each and every calendar month of the term hereof, Lessee shall file a report of Gross Receipts and pay to County a sum equal to the total of the following percentages for said previous

month, less the amount of the installment of Monthly Minimum Rent paid for said previous month as provided herein:

(a) TWENTY FIVE PERCENT (25%) of Gross Receipts or other fees for the rental or use of boat slips, anchorages, moorings, dockside storage space, and such other facilities and services ancillary thereto as are generally provided in common to tenants thereof, including receipts obtained from persons who live on their boats;

(b) TWENTY PERCENT (20%) of Gross Receipts from the rental or other fees charged for the use of dry storage facilities, landside storage space, boats, motors, tackle, recreational equipment, tools, equipment, launch and retrieving of small boats and from the sale of live bait;

(c) TEN AND ONE-HALF PERCENT (10.5%) of Gross Receipts or other fees charged for (1) the occupancy of apartments, (2) the rental or use of meeting rooms, or (3) the rental or use of land and/or water or facilities for activities not otherwise provided for in this section, such as but not limited to television, motion pictures or other media filming purposes;

(c1) TEN PERCENT (10%) of Gross Receipts or other fees charged for the occupancy of (1) offices utilized for banking, financial or investment activities, internal clerical or administrative activities (other than Lessee's management office), business enterprises, real estate and insurance brokerage, legal, medical, engineering, travel agencies, yacht club purposes, or similar uses; or (2) restaurants, stores, shops, or other commercial establishments; provided that, except as provided in subsection 4.2.2.5, Gross Receipts or other fees charged for the occupancy of restaurants, stores, shops or other commercial establishments shall not be included in the calculation of Percentage Rent under this subsection (c1) if the Gross Receipts from the operation of such businesses are required to be reported under other subsections of this Section;

(d) Intentionally omitted;

(e) FIVE PERCENT (5%) of commissions or other fees earned from boat brokerage, car rental agencies, marine insurance commissions where the sale of insurance is conducted in conjunction with boat sales and/or boat brokerage, laundry and dry cleaning commissions and other similar activities where earnings are normally on a commission basis when said activity is approved in advance by Director;

(f) With respect to service enterprises, including, without limitation, cable television, internet, satellite, telecommunication or other antennae fees, telephone and other utility services, and valet parking services, FIVE PERCENT (5%) of the Gross Receipts received by Lessee or sublessee from such enterprise if Lessee or a sublessee is the operator of such enterprise, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee or a sublessee from such enterprise if a third (3rd) party provider is the operator of such enterprise

(g) SIX PERCENT (6%) of Gross Receipts received by Lessee or sublessee, or TWENTY PERCENT (20%) of any commissions or fees collected from commercial

boating activities including, but not limited to, charter boat, bareboat charters and sportfishing boats;

(h) With respect to the installation and/or operation of coin-operated vending or service machines, including pay telephones, FIVE PERCENT (5%) of the Gross Receipts received by Lessee or sublessee from such enterprise if Lessee or a sublessee is the operator of such enterprise, or TWENTY PERCENT (20%) of any commissions or fees collected by Lessee or a sublessee from such enterprise if a third (3rd) party provider is the operator of such enterprise;

(i) TEN PERCENT (10%) of Gross Receipts from the operation of a bar, tavern, cocktail lounge, discotheque, night club or other facilities engaged primarily in the on-premises sale of alcoholic beverages except as provided for in subsection (j);

(j) THREE AND ONE-HALF PERCENT (3½%) of Gross Receipts from the operation of restaurants, restaurant/cocktail lounge combination, coffee shops, beach and theater food facilities, except that Gross Receipts from facilities established and operated as a take-out food operation shall be reported under subsection (s); a "take-out food operation" shall mean a restaurant or other food operation a majority of the Gross Receipts from which are derived from the sale of food or beverages to be consumed off-site;

(k) Intentionally omitted;

(l) Intentionally omitted;

(m) FIFTEEN PERCENT (15%) of Gross Receipts from club dues, initiation fees, and assessments, except that separate assessments for capital improvements may be exempted; provided that to qualify for such an exemption Lessee must comply with the "Criteria for Eligibility for Exemption of Special Assessments from Gross Receipts" issued by the Director;

(n) Intentionally omitted;

(o) Intentionally omitted;

(p) Intentionally omitted;

(q) FIVE PERCENT (5%) of Gross Receipts of cover charges or other fees charged for admission to facilities featuring entertainment, excluding movie theaters, whose Gross Receipts shall be reportable under subsection (s);

(r) TWENTY PERCENT (20%) of Gross Receipts from parking fees, except that (1) parking fees or charges, if any, which are collected in conjunction with an activity the Gross Receipts from which are required to be reported in a percentage category higher than twenty percent (20%) shall be included in Percentage Rent at such higher percentage; and (2) valet parking charges, fees and tips shall not be included in

Percentage Rent under this subsection, but instead shall be included in Percentage Rent under subsection (f) above;

(s) FIVE PERCENT (5%) of Gross Receipts from the sale of miscellaneous goods and services consistent with the Permitted Uses but not specifically provided for elsewhere in this subsection;

(s1) FIVE PERCENT (5%) of the Gross Receipts from the operation of all stores, shops or boutiques selling items at retail; and,

If with the prior approval of County or Director Lessee hereafter engages in a use that is not currently permitted under this Lease and as to which there is no specific percentage set forth above applicable to such additional or related use, then concurrent with the approval by County or Director of such specific additional use, Director and Lessee shall negotiate in good faith with Lessee to establish the specific percentage to be applied to such use. Such percentage shall be the greater of (1) the average percentage received by County with respect to that category of activities within Marina del Rey, California at the time of approval of the additional or related use, and (2) the most recent agreement between County and a Marina del Rey lessee, whether by arbitration or otherwise, with respect to the appropriate percentage to be applied to that use. The percentage rent for the additional or related use as determined pursuant to this paragraph shall remain in effect until the next Renegotiation Date.

4.2.2.1 Other Activities. If Director or Lessee reasonably determine that a percentage of Gross Receipts is not suitable or applicable for a particular activity not described above, although permitted hereunder, Director and Lessee shall mutually establish a minimum monthly payment to County as payment for the privilege of engaging therein, which shall remain effective until the next Renegotiation Date. Said minimum monthly amount shall be reasonable in accordance with the revenue generated by such activity and shall be included in Percentage Rent, as determined hereunder, in lieu of a percentage of Gross Receipts therefor.

4.2.2.2 Accounting Records and Procedures. Lessee agrees to and shall comply with, and shall cause all of its sublessees, licensees, permittees and concessionaires to agree to and comply with, the recordkeeping and accounting procedures, as well as the inspection and audit rights granted to County, set forth in Article 14 of this Lease.

4.2.2.3 Gross Receipts. Except as herein otherwise provided, the term "Gross Receipts" as used in this Lease means all money, cash receipts, or other things of value, including but not limited to gross charges, sales, rentals, common area maintenance payments, operating expense reimbursements, fees and commissions made or earned by Lessee and/or all its assignees, Sublessees, licensees, permittees or concessionaires, from any business, use, occupation or any combination thereof, originating, transacted, or performed in whole or in part, on the Premises, including but not limited to rentals, the rendering or supplying of

services and the sale of goods, wares or merchandise, calculated in accordance with the accounting method described in the last sentence of Section 14.1.

(1) Except as otherwise set forth herein, there shall be no deduction from Gross Receipts for any overhead or cost or expense of operation, such as, without limitation, salaries, wages, costs of goods, interest, debt amortization, rent credit (but the value of any free rent period shall not be imputed as Gross Receipts), collection costs, discounts from credit card operations, insurance and taxes.

(2) Gross Receipts shall not include direct taxes imposed upon the consumer and collected therefrom by Lessee such as, without limitation, retail sales taxes, excise taxes, or related direct taxes paid periodically by Lessee to a governmental agency accompanied by a tax return statement.

(3) Gross Receipts reported by Lessee and its Sublessees, assignees, licensees, Lessees and permittees must include the usual charges for any services, goods, rentals or facilities provided by Lessee or its Sublessees, assignees, licensees, concessionaires or permittees. Bona fide bad debts actually accrued by Lessee for amounts owed by subtenants, assignees, licensees concessionaires or permittees may be deducted from Gross Receipts to the extent that such amounts have been previously reported as Gross Receipts; however, there shall be no deduction for bad debts based on past experience or transfer to a bad debt reserve. Subsequent collection of bad debts previously not reported as Gross Receipts shall be included in Gross Receipts at the time they are collected.

(4) Gross Receipts shall not include any of the following items:

a. goods returned to suppliers or which are delivered for resale (as opposed to delivery) to another retail location or to a warehouse or to any retailers without profit to Lessee, where such returns or deliveries are made solely for the convenient operation of the business of Lessee or sublessee and not for the purpose of consummating a sale made in, about or from the Premises;

b. an amount equal to the cash refunded or credit allowed on merchandise returned by customers and accepted by Lessee, or the amount of cash refunded or credit allowed thereon in lieu of Lessee's acceptance thereof, but only to the extent that the sales relating to such merchandise were made in, about or from the Premises; provided that whenever Lessee accepts a credit slip as payment for goods or services, the amount of credit shall be included in Gross Receipts;

c. sales of fixtures, equipment or property which are not Lessee's stock in trade;

d. receipts from insurance claims other than rental interruption or business interruption insurance related to the replacement of Gross Receipts;

e. interest earned by Lessee on funds arising from the Premises or the use thereof, deposited or maintained by Lessee in banks or similar financial institutions;

f. the Cost of Lessee's subtenants' submetered electricity, provided (1) each subtenant's obligation to reimburse Lessee for such subtenant's electrical charges is separate and apart from such tenant's obligation to pay rent for its occupancy of the Premises; (2) the reimbursed sum is in an amount equal to the Cost of the subtenant's electricity; and, (3) the receipt is actually credited against the cost of the subtenant's electricity. For the purpose of the foregoing sentence, the "Cost" of the subtenant's electricity shall mean the actual costs incurred by Lessee, exclusive of overhead and general and administrative expenses, in paying the portion of the respective utility's electric bill that is allocable to the subtenant based on such subtenant's submetered consumption of electricity, and in paying the portion of any third party submeter reading and service charge to each submeter that is actually read and a direct allocation of the submeter service charge to each such submeter that is serviced. County shall have the right to approve all submeters and to challenge the legitimacy or amount of any Cost, and all disputes regarding such County approvals or challenges, if not resolved by the parties within thirty (30) days after notice to Lessee of such disapproval or challenge, shall be resolved by arbitration pursuant to Article 16 of this Lease. The terms and provisions of this paragraph f shall also be applicable to other submetered utility charges to the extent that it is customary for subtenants to be responsible for such other utility charges.

g. amounts received for services rendered by a Sublessee of an individual apartment unit (or by a live-aboard) in connection with the operation by such Sublessee (or live-aboard) of an in-home business in such apartment unit (or the boat of such live-aboard), as long as the primary purpose of Sublessee's use of the apartment unit (or boat) is for residential occupancy and such in-home business is an incident to such residential use.

4.2.2.4 Excess Payments Credit. If rent payments actually made by Lessee in a particular Lease Year exceed the total rentals actually due for that year as computed on an annual basis at the end of each Lease Year, Lessee shall be permitted to credit that excess amount ("Excess Percentage Rent Payment") against the succeeding monthly installments of Percentage Rent otherwise due under this subsection 4.2.2 until such time as the entire Excess Percentage Rent Payment has been recouped. If Lessee makes an Excess Percentage Rent Payment in the final Lease Year of the Term, County shall refund such amount to Lessee within thirty (30) days of its discovery and verification of such overpayment.